THE HON'BLE MR JUSTICE B. SUDERSHAN REDDY

and
THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION NO : 21999 of 2000

Dated 16.09.2005

Between:

M/s.Kanaka Durga Wines rep by Bandi Raji Reddy

S/o Venkat Reddy, Hindu, aged 35 years

R/o Ramakrishnapur,

Mandamarri Mandal,

Adilabad.

..... PETITIONER

AND

1. Deputy Commercial Tax Officer,

Luxettipet And others.

.....RESPONDENT(S)

THE HON'BLE MR JUSTICE B. SUDERSHAN REDDY

and
THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION NO : 21999 of 2000

Oral Order: (Per Sri BRSR,J)

None appears on behalf of the writ petitioner when the matter is taken up for hearing both yesterday and today. We have heard the learned Special Standing Counsel for the department and perused the records.

The petitioner invokes the extraordinary jurisdiction of this court under Article 226 of the Constitution of India with a prayer to issue a writ of Certiorari by calling for the records leading to the destraint order dated 22.10.2000 issued by the 1st respondent under the provisions of the A.P. Revenue Recovery Act, 1864 and quash the same.

There is no dispute whatsoever that the petitioner was a proprietary concern engaged in the business of sale of Indian made foreign liquor at Mandamarri mandal, Adilabad District during the years 1993-94 and 1994-95. The competent authority passed assessment orders for the years 1993-94 and 1994-95 and the following amounts of tax was liable to be paid by the petitioner.

1993-94 ---------- 11,767.00

95. ---------- 1,30,501.00

Total 1,42,268.00

The fact remains that the petitioner did not pay the said amounts. The department made attempts to realize the said arrears of tax from the petitioner, in vein. The contention of the petitioner is that the orders of assessment were passed by the competent authority without putting him on notice and without making any enquiry whatsoever as is required under the provisions of the A.P. General Sales Tax Act, 1957.

In the counter affidavit filed by the respondent – Deputy Commercial Tax Officer, Luxxettipet, it is stated in specific terms that before passing the provisional assessment orders for the years
1993-94 and 1994-95, pre-assessment notices dated 28.2.1997, 6.12.1996 and 15.1.1998 were issued. The first notice was sent by post and the second and third notices were affixed on 5.8.1997 and 27.2.1998 on the business premises of the petitioner. The final assessment orders were passed on 22.3.1997 and 16.3.1998.

It is required to notice that the petitioner did not challenge the final assessment orders that were passed by the respondent on 23.2.1997 and 16.3.1998. Thus, the liability of the petitioner to pay the tax has become final. In this writ petition, we cannot judicially review the final assessment orders passed by the competent authority in the absence of any challenge to the orders of assessment. The consequential proceedings initiated by the respondents to recover the amounts due from the petitioner under the provisions of the revenue recovery act cannot be interfered with. Nothing is stated in the affidavit as to how the procedure adopted by the respondents herein for realization of the amounts due under the provisions of the Revenue Recovery Act suffers from any infirmity. In fact an attempt is made by the petitioner to contend that the assessment orders were passed without any notice to him. But, he did not challenge the said orders. In such view of the matter, no relief could be granted to the petitioner.

The petitioner appears to have paid a sum of Rs.50,000/- pursuant to the interim directions of this Court. The rest of the amount shall be recovered by the respondents herein from the petitioner in four bimonthly instalments, if not already recovered by this time.

The writ petition shall accordingly stand disposed of. No costs.

(B.SUDERSHAN REDDY,J)

dated 16..09..2005

(S.ANANDA REDDY,J)

msv